

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

BENSLEY B. PARTEE,

Plaintiff,

v.

WALMART STORES EAST, LP,

Defendant.

CIVIL ACTION FILE

No. 2:20-CV-00096-SCJ

ORDER

The Court issues the following Order in conjunction with its separately issued pretrial order. The Parties submitted their proposed *voir dire* questions as attachments to the proposed pretrial order. Doc. Nos. [55-2]; [55-3]. While no objections were filed, the Court has reviewed the proposed questions and now issues this Order with an amended list of questions (Attachments B-1 and B-2) the Parties may ask potential jurors on *voir dire*.

IT IS SO ORDERED this 13th day of February, 2023.



HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

AMENDED ATTACHMENT B-1 - MR. PARTEE'S GENERAL QUESTIONS

1. Who here feels a little uncomfortable?
2. Who here is a little nervous?
3. Who here wants to wrap this up and get home?
4. Ok, who here has shopped at a Wal-Mart in the last year?
5. What feelings do you have about Wal-Mart?
6. Who here has had a bad experience with Walmart?
7. Who here has worked for Walmart?
8. Who here has ever applied to work for Walmart?
9. Has anyone visited the Wal-Mart at 3245 Lawrenceville Suwanee Road in Suwanee Georgia?
10. Any impression of that particular Walmart?
11. Who has negative feelings about:
 - a. Personal injury cases in general?
 - b. Personal injury lawyers?

- c. Lawyers who advertise on TV, buses, or billboards? Who here doesn't like the lawyer tv ads and buses with dollars raining from the heavens? Who might hold it against Mr. Partee because some lawyers do that?
- 12. Who here has had an experience with the court system that was unpleasant?
- 13. Who here has made a personal injury claim?
- 14. Who here has been hurt at any business or store?
- 15. Who here has a friend or family member who has been hurt at a business or store?
- 16. Who here or someone in their family knows another juror here or someone in their family?
- 17. Have you or a loved one had injuries or surgeries on your knee or back?

18. Are any of you so distracted by something outside of court that you are concerned with your ability to give your full attention to this case?
19. Do any of you feel that there should be a cap on the amount that a person can recover in a personal injury trial?
20. So is it fair to say that for you there's always going to be that factor in your mind that you believe Walmart has a percentage of fault regardless of what you see at trial?
21. Does anyone think it is wrong or unfair that the person who says he got hurt is the one with the burden to prove his case?
22. Now this is not going to be a "criminal trial," nobody's accused of a crime, so this is not a criminal trial. This is going to be a "civil" trial, so it is a different kind of case. In a "civil" trial, like this case, Plaintiff must only prove the case by a "preponderance of the evidence." This is a lower burden than a criminal case. Does anyone have a problem

with assessing this case based on a lower burden than a criminal case?

23. At the close of this trial, I will ask the jury on behalf of my client to award damages based on pain and suffering. Does anyone have a problem with awarding damages based on pain and suffering if the evidence permits?
24. Ok, now some people may feel like, if they're hurt, they need to go to the doctor until they feel better. Others may feel that, if they're hurt, they'll go to the doctor for a while, but if stops helping, they'll just suck it up and move on with life. Who here is that first kind and might be a little biased against someone who didn't go to the doctor until they felt better?
25. Who here is that second kind and might be a little biased against someone who keeps going to the doctor even if it stops doing any good?

26. Ok, now there's two kinds of injuries. One is external. You can see it, like a broken arm or a burn. The other kind is internal, like a spinal injury. You can't see it without special machines. Who here might be a little biased against someone who said they suffered internal injuries that you can't see? Who here believes that, if someone says they're hurt, the only way that can be true is if you can see it with your own two eyes?
27. Does anyone have a physical disability that limits you in some way?
28. Does anyone have a close friend or family member with a physical disability that limits them in some way?
29. Who here believes they would have natural sympathy for someone who was already limited in some way who fell? Who here believes they would have no sympathy for someone who was already limited in some way who fell?

30. How many of you consider yourselves to be compromisers? How many of you prefer to stick to your guns?
31. How many of you consider yourselves to be listeners? How many of you consider yourselves to be talkers?
32. At the close of the evidence, I am going to ask you to return a verdict for my client in an amount probably between 1 and 2 million dollars. Would anyone here hesitate to returning a verdict in that amount if there is evidence to support it?

ATTACHMENT B-2 - DEFENDANT'S VOIR DIRE QUESTIONS

1. Do any of you know, or have any of you ever heard of any of the following persons or entities:
 - i. The Plaintiff, Bensley Partee;
 - ii. Kobelah Svensen Bennah ;
 - iii. Robert A. Falanga;
 - iv. Any employee, stockholder, agent, officer, or director of
LAW OFFICES OF FALANGA & CHALKER;
 - v. McLain & Merritt, PC, including Jennie E. Rogers and
Mark L. Pickett;
 - vi. Robert Long;
 - vii. Nikki Hutto;
 - viii. Maria Hernandez;
 - ix. Mandy Braswell;
 - x. Jetuan Green;

- xi. Breisha Carter;
- xii. Gerald Guerin, III;
- xiii. Percy Gayton, Jr.;
- xiv. Mai'Tavia Brown;
- xv. Marvell Partee;
- xvi. Dr. Barry Jefferies;
- xvii. Mehta Pratik, MD, and other medical providers of
Gwinnett Medical Center;
- xviii. Stacy D. Brown, DC, and other medical providers of
Pivotal Rehab Center;
- xix. Nicole Forsyth, MD, and other medical providers of
Dominion Orthopedic Clinic LLC;
- xx. Fitz Harper, MD, and other medical providers of
Lennox Specialty Group;

xxi. Shahin J. Korangy, MD, and other medical providers of
Image Link;

xxii. Young Won Kang MD;

2. Have any of you ever filed a lawsuit where you sought a monetary award, that is you were the plaintiff?
3. Have any of you or a family member or someone close to you ever been sued, that is you were a defendant?
4. Have any of you worked in the insurance industry adjusting claims?
5. Do any of you have such a strong feeling or prejudice against department stores, grocery stores, or discount stores that you could not render a fair and impartial verdict in this case?
 - (a) Why do you have such feelings?
 - (b) Will they prevent you from treating Wal-Mart fairly in this case?

6. Have any of you had any bad or negative experience whatsoever in a Wal- Mart store? Please describe. Do you feel that you could not render a fair and impartial verdict in this case?
7. Have any of you or your family members ever been discharged, terminated, or fired from employment with Wal-Mart Stores, Inc.? Can you render a fair and impartial verdict in this case?
8. Have any of you or your close friends or family members ever had any bad or negative experience whatsoever in a retail store? Please describe. Do you feel that you could not render a fair and impartial verdict in this case?
9. Do any of you disagree that a corporation should be afforded equal treatment under the law as an individual person?
10. Is there anyone of you that would refuse to follow and apply the law, as charged to you by the Judge, even if you did not like that rule of law?

11. Have any of you ever worked in a retail or grocery store? In a job where you handled customer service or maintenance?
 - (a) What were your duties?
 - (b) Who was your employer?
 - (c) How long?
12. Have any of you ever worked in a medical office or hospital?
 - (a) What were your duties?
 - (b) Which provider, hospital or specialty?
 - (c) How long?
13. Is there any reason any of you could not be fair to Plaintiff in this case?
14. Is there any reason any of you could not be fair to Wal-Mart in this case?
15. Do any of you believe that a plaintiff should be awarded a verdict in a case solely because he or she filed a lawsuit?

16. Have any of you ever worked in the legal field or had any legal training? Please give the details.
17. How many of you have ever served on a civil jury?
 - (a) Where?
 - (b) When?
 - (c) What kind of case was it?
17. Do any of you know one another?
 - (a) Who?
 - (b) How?
18. Have any of you ever worked for a company that was sued in a situation where you were involved somehow, either as a material witness or otherwise?
 - (a) What kind of case?
 - (b) When?
 - (c) With what results?

(d) Who was their lawyer?

19. Are any of you in any business where you call on lawyers or do business with lawyers?

(a) What business?

(b) For whom?

(c) Where?

20. Are there any of you who for any reason feel that you cannot render a fair and impartial verdict in this case based on the evidence and the law which the judge will give you in charge?

21. Have any of you ever suffered an injury in a department store, grocery store, discount store or any other type of commercial establishment? If so, please describe your experience. Do you feel that you could not render a fair and impartial verdict in this case because of your negative experience or encounter?

22. Have any of you or your family members ever worked in loss prevention in any capacity?
23. Have any of you ever filed a wrongful termination claim?
 - (a) What kind of case?
 - (b) When?
 - (c) With what results?
24. Have any of you ever filed a claim for personal injury?
25. Have any of you ever filed a claim for workers' compensation?
26. Have you or a close friend or family member ever experienced a shoulder dislocation, torn rotator cuff or shoulder injuries?
27. Have you or a close friend or family member ever had any type of knee or low back injections?
28. Have you or a close friend or family member ever suffered balance issues?

29. Have you or a close friend or family member ever suffered an injury that left you unable to drive a motor vehicle on an extended or permanent basis?
30. Have you or a close friend or family member ever suffered an injury that caused mood or personality changes on an extended or permanent basis?
31. Have you or any of your immediate family members ever worked in law enforcement? If so,
 - (a) For whom?
 - (b) When?
 - (c) Where?
 - (d) What position was held?
32. Have you or any of your immediate family members ever served in the military? If so,
 - (a) For whom?

- (b) When?
- (c) Where?
- (d) What position was held?